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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 -----x
4 UNITED STATES OF AMERICA,

v.

17 CR 684 (ER)

5 CHRISTIAN DAWKINS AND MERL
6 CODE ,

Defendants.

Trial

7 -----x
8 New York, N.Y.
9 April 22, 2019
10 9:03 a.m.

11 Before:

12 HON. EDGARDO RAMOS

13 District Judge

14 APPEARANCES

15 GEOFFREY S. BERMAN
16 United States Attorney for the
17 Southern District of New York
18 ROBERT L. BOONE
19 NOAH D. SOLOWIEJCZYK
20 ELI J. MARK
21 Assistant United States Attorneys

22 HANEY LAW GROUP PLLC
23 Attorney for Defendant Dawkins

24 CHANEY LEGAL SERVICES, LLC
25 BY: DAVID A. CHANEY, JR.
26 -and-

27 NEXSEN PRUET, LLC
28 BY: ANDREW A. MATHIAS
29 MARK C. MOORE
30 Attorneys for Defendant Code

31 ALSO PRESENT: JOHN VOURDERIS, Special Agent FBI
32 YOLANDA BUSTILLO, Paralegal Specialist USAO
33 EMILY GOLDMAN, Paralegal Specialist USAO

34 SOUTHERN DISTRICT REPORTERS, P.C.
35 (212) 805-0300

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1 (Case called)

2 THE COURT: With respect to the jury, what we're going
3 to do is we're going to have 18 folks in the box, and we're
4 going to have 14 folks in the first two rows. So they'll be
5 numbered -- the closest one to me will be potential Juror
6 No. 1, and the second row will be potential Juror No. 7. That
7 takes us through 12. And then in the third row, potential
8 Juror No. 13. Then in the first two rows in the center here,
9 there will be seven in the first row, seven in the second row.
10 The first one will be potential Juror No. 19, first row all the
11 way over to my left, etc.

12 OK. Folks want to put your appearance on the record.

13 Mr. Mark just walked in.

14 MR. BOONE: Yes. Good morning, your Honor. Robert
15 Boone and Noah Solowiejczyk for the government. Oh, and Eli
16 Mark.

17 MR. MARK: And Eli Mark.

18 MR. HANEY: Good morning, your Honor. Steve Haney on
19 behalf of Christian Dawkins.

20 MR. MOORE: Good morning, your Honor. Mark Moore on
21 behalf of Merl Code. With me are Allen Chaney and Andrew
22 Mathias. The three of us will be representing Mr. Code.

23 THE COURT: Good morning to you all.

24 I did receive the government's letter yesterday. It
25 came in some time after midnight. I guess we should address

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1 the issue. How do the parties wish to proceed?

2 MR. MOORE: I don't know if Mr. Solowiejczyk wishes to
3 go first. It's my understanding that any conflict is going to
4 be waived by both parties, but I would prefer, as
5 Mr. Solowiejczyk mentioned in his letter, to address this in
6 chambers if your Honor would allow us to do that.

7 THE COURT: Any objection?

8 MR. SOLOWIEJCZYK: We take no position on it, your
9 Honor.

10 THE COURT: Why don't we do this: We can go -- it's
11 not going to be in chambers. It's going to be in the jury room
12 because there's no adequate seating in chambers, so let's just
13 do that now.

14 MR. MOORE: Yes, sir.

15 (Pages 4 through 21 SEALED)

16 (Continued on next page)

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1 (In the jury room)

2 MR. MOORE: Your Honor, could I ask one quick
3 question? Your jury selection method seems to be slightly
4 different from Judge cap lab's. I take it you're going to
5 qualify these first set of jurors and then make decisions about
6 who to excuse and who not to excuse, and then you'll bring in
7 another group. Is that the way you intend to proceed?

8 THE COURT: No. What we'll do is we'll, as I
9 indicated on the -- this is not sealed. As I indicated on
10 Friday, I'm going to go through the -- there's going to be 32,
11 I guess, potential jurors at any one time.

12 MR. MOORE: Yes, sir.

13 THE COURT: I'm going to go through and ask each
14 potential juror the part one questions.

15 MR. MOORE: Yes, sir.

16 THE COURT: If it becomes obvious during the course of
17 questioning a particular juror that he or she ought be excused
18 for cause, they will be excused right away and replaced with
19 another potential juror.

20 MR. MOORE: Yes, sir.

21 THE COURT: And we will do that until we have 32 clean
22 jurors.

23 MR. MOORE: Right.

24 THE COURT: And then I will go through with the part
25 two questions with every clean juror.

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1 MR. MOORE: Yes, sir.

2 THE COURT: And it is unlikely, it sometimes happens
3 but it's unlikely, that those questions will yield a reason
4 that they should be excused for cause. So once we do that,
5 arguably we'll have 32 clean jurors still, but if not, then we
6 will have replaced the person. Then I'll give you the
7 opportunity to exercise your peremptories. OK?

8 MR. MOORE: Yes, sir. With respect to the voir dire,
9 and I know we submitted some proposed edits to it, Mr. Haley's
10 name should not be called to the jury panel -- I know he's in
11 the voir dire script submitted by both sides -- because he is
12 not going to be participating.

13 THE COURT: Too late. It's in there.

14 MR. MOORE: I'm sure he'll be happy to hear that.

15 (In open court)

16 MR. BOONE: Your Honor, while she's doing that, we
17 just wanted to remind the Court that the defendants need to be
18 arraigned on the superseding indictment.

19 THE COURT: We can do that now.

20 Counsel for Mr. Dawkins and Mr. Code, have you
21 received a copy of the superseding indictment?

22 MR. HANEY: We have, your Honor.

23 MR. MOORE: We have, your Honor.

24 THE COURT: Have you discussed it with Mr. Dawkins and
25 Mr. Code?

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1 MR. HANEY: Yes, your Honor, on behalf of Mr. Dawkins.

2 MR. MOORE: Yes, on behalf of Mr. Code.

3 THE COURT: Do you wish to have a public reading of
4 the indictment?

5 MR. HANEY: We waive formal reading on behalf of
6 Mr. Dawkins.

7 MR. MOORE: We would also waive reading, your Honor.

8 THE COURT: How does Mr. Dawkins plead, guilty or not
9 guilty?

10 MR. HANEY: Enter a not guilty plea, your Honor.

11 THE COURT: How does Mr. Code plead, guilty or not
12 guilty?

13 MR. MOORE: Same, your Honor, he would enter a not
14 guilty plea at this time.

15 THE COURT: Very well. So we've handed out the form.
16 You'll see we did not include that portion of I believe the
17 question 32 or 34 that was requested by defendants. I thought
18 that the government's objection to that was well-taken.
19 And other than that, I think all the other changes are
20 noncontroversial.

21 Let's get a -- any word on the jury?

22 THE DEPUTY CLERK: 10:15.

23 THE COURT: The jury hopefully will be up here
24 sometime around 10:15. Like I said, there will be 18 in the
25 box, 14 in the first two rows. Is there anything else that the

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1 parties wish to raise at this point?

2 MR. HANEY: Not on behalf of Mr. Dawkins. Thank you.

3 MR. MOORE: No, sir, not on behalf of Mr. Code.

4 THE COURT: So we'll see you in a bit.

5 MR. HANEY: Thank you, your Honor.

6 MR. MOORE: Thank you.

7 (Recess)

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THE COURT: I understand the government wanted to raise something.

MR. BOONE: Yes, your Honor. Just in an abundance of caution, we wanted to put on the record that we did have plea negotiations with Christian Dawkins long before this trial. Obviously, they didn't go very far.

In terms of Merl Code my understanding is that we never formally gave him a written offer but there were preliminary discussions.

THE COURT: OK. Did either of defense counsel wish to put anything on the record in that regard?

MR. HANEY: Only, your Honor, that we did engage in brief conversation. There was no deal that was arrived at on behalf of Dawkins.

MR. MOORE: We had very abbreviated discussions. My client was not interested in pursuing them any further.

THE COURT: Very well. Anything further?

MR. BOONE: No, your Honor.

THE COURT: I understand that the venire is on its way up so I'll come right out when they're here.

(Jury selection ensued)

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